

## ***The Zero Tolerance for Deceptive Fentanyl Trafficking Act***

*Introduced by Sens. Cotton (AR), Loeffler (GA), and Blackburn (TN)*

### **Background**

- Fentanyl remains one of the primary drivers of the drug overdose epidemic in the United States.
- The Centers for Disease Control reported a 47 percent increase in synthetic opioid-involved deaths in the United States from 2016 to 2017, primarily involving fentanyl or its analogues. The Drug Enforcement Administration (DEA) reports that fentanyl availability increased from 2017 to 2018, the most recent year for which data is available.
- A small amount of fentanyl (as little as 1-3mg) is lethal. Given the inconsistent amount of fentanyl present in counterfeit pills or sold as if it were other drugs, unsuspecting drug users often overdose.
- The two primary sources of fentanyl are Mexico and China. Fentanyl is trafficked into the United States across the southern border, where it is then laced into other drugs, pressed into counterfeit pills, or mixed with non-drug powders and sold as if it were heroin or cocaine.
- Illicit fentanyl manufacturers in Mexico and China attempt to circumvent federal drug laws by making minor changes to their fentanyl formulas to create new analogues that are not specifically covered by the Controlled Substances Act. The DEA has used its emergency authority to schedule these illicit fentanyl analogues as a class of substances, but that authority is temporary will soon expire without congressional action.

### **The Zero Tolerance for Deceptive Fentanyl Trafficking Act**

- This bill focuses on drug traffickers who trick unsuspecting (and, often, addicted) drug users into using fentanyl by representing it as something else.
- Drug traffickers who intentionally misrepresent fentanyl as a non-fentanyl substance would face the prospect of a 20-year penalty. If the trafficker has a prior felony conviction or is illegally in the United States, then he would face a life sentence.
- If a drug trafficker is proven to have misrepresented fentanyl as a non-fentanyl substance with the intent to cause death, or if the misrepresentation actually results in death, then the offense will become death penalty-eligible.
- The penalties in this bill only apply to the worst traffickers: those who are proven to knowingly misrepresent fentanyl as a non-fentanyl substance to unsuspecting users.
- The bill would also make permanent the DEA's current, temporary scheduling of the class of fentanyl analogues.

For more information, contact Drew Hudson ([Drew\\_Hudson@cotton.senate.gov](mailto:Drew_Hudson@cotton.senate.gov))